

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 16, 2003

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
AENEAS COMMUNICATIONS, INC.**

**DOCKET NO.
03-00335**

**ORDER APPROVING
FIFTH AMENDMENT TO INTERCONNECTION AGREEMENT**

This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 7, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Aeneas Communications, Inc.

The original interconnection agreement between these parties was filed on January 30, 2001, and was assigned Docket No. 01-00092. It was approved at a regularly scheduled Authority Conference on April 3, 2001. The first amendment was filed on July 19, 2001, under Docket No. 01-00634 and was approved at a regularly scheduled Authority Conference on September 25, 2001. The second amendment was filed on September 26, 2001, under Docket No. 01-00835 and was approved at a regularly scheduled Authority Conference on December 4, 2001. The third amendment was filed on November 22, 2002, under Docket No. 02-01247 and was approved at a regularly scheduled Authority Conference on December 16, 2002. The fourth

amendment was filed on April 10, 2003, under Docket No. 03-00271 and was approved at a regularly scheduled Authority Conference June 2, 2003.¹ The fifth amendment, which is the subject of this docket, was filed on May 14, 2003.

Based upon a review of the fifth amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

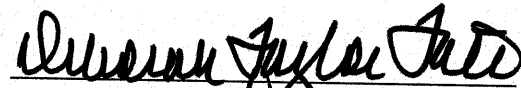
¹ See *In re: Petition for Approval of Amendment to Interconnection Agreement Between BellSouth Telecommunications, Inc. and Aeneas Communications, Inc.*, Docket No. 03-00271, *Amended Order Approving Fourth Amendment to Interconnection Agreement* (September 2, 2003).

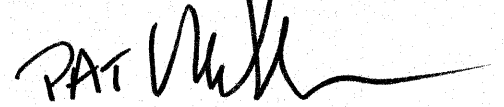
² See 47 U.S.C. § 252(e)(2)(B).

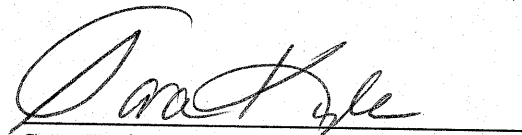
- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Aeneas Communications, Inc. is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Chairman


Pat Miller, Director


Sara Kyle, Director